

**§ 216.92 Dolphin-safe requirements for tuna harvested in the ETP by large purse seine vessels.**

(a) *U.S. vessels.* Tuna products that contain tuna harvested by U.S. flag purse seine vessels of greater than 400 st (362.8 mt) carrying capacity in the ETP may be labeled “dolphin-safe” if the following requirements are met:

(1) “Dolphin-safe” Tuna Tracking Forms certified by the vessel captain and the observer are submitted to the Regional Administrator, Southwest Region, at the end of the fishing trip during which the tuna was harvested;

(2) The tuna has been processed by a U.S. tuna processor in a plant located in one of the 50 states, Puerto Rico, or American Samoa that is in compliance with the tuna tracking and verification requirements of § 216.94;

(3) The tuna or tuna products are accompanied by a properly completed FCO;

(4) The tuna or tuna products meet the dolphin-safe labeling standards under § 216.91; and

(5) The FCO is properly endorsed by each processor certifying that, to the best of his or her knowledge and belief, the FCO and attached documentation are complete and accurate.

(b) *Imported tuna.* Tuna or tuna products harvested in the ETP by purse seine vessels of greater than 400 st (362.8 mt) carrying capacity and presented for import into the United States are dolphin safe if:

(1) The tuna was harvested by a U.S. vessel fishing in compliance with the requirements of the IDCP and applicable U.S. law, or by a vessel belonging to a nation that has obtained an affirmative finding of § 216.24(f)(9);

(2) The tuna or tuna products are accompanied by a properly completed FCO;

(3) The tuna or tuna products are accompanied by valid documentation signed by a representative of the appropriate IDCP member nation, certifying that:

(i) There was an IDCP approved observer on board the vessel(s) during the entire trip(s); and

(ii) The tuna contained in the shipment were caught according to the dolphin-safe labeling standards of § 216.91;

(4) The documentation provided in paragraph(b)(3) of this section includes a listing of vessel names and identifying numbers of the associated Tuna Tracking Forms for each trip of which tuna in the shipment originates; and

(5) The FCO is properly endorsed by each exporter, importer, and processor certifying that, to the best of his or her knowledge and belief, the FCO and attached documentation are complete and accurate.

[65 FR 57, Jan. 3, 2000]

**§ 216.93 Submission of documentation.**

(a) Requirements for the submission of documents concerning the activities of U.S. flag vessels with greater than 400 st carrying capacity fishing in the ETP are contained in § 216.94.

(b) The import documents required by §§ 216.91 and 216.92 must accompany the tuna product whenever it is offered for sale or export, except that these documents need not accompany the product when offered for sale if:

(1) The documents do not require further endorsement by any importer or processor and are submitted to officials of the U.S. Customs Service at the time of import; or

(2) The documents are endorsed as required by § 216.92(b)(4) and the final processor delivers the endorsed documents to the Administrator, Southwest Region, or to U.S. Customs as required.

[65 FR 57, Jan. 3, 2000]

EFFECTIVE DATE NOTE: At 69 FR 55307, Sept. 13, 2004, § 216.93 was removed, effective Oct. 13, 2004.

**§ 216.94 Tracking and verification program.**

The Administrator, Southwest Region, has established a national tracking and verification program to accurately document the “dolphin-safe” condition of tuna, under the standards set forth in § 216.91(a). The tracking program includes procedures and reports for use when importing tuna into the U.S. and during U.S. purse seine fishing, processing, and marketing in the U.S. and abroad. Verification of tracking system operations is attained through the establishment of audit and document review requirements. The tracking program is consistent with